

CHAPTER 1

Subject matter and scope

Article 1

A person who has created a literary or artistic work shall have copyright therein, whether it be a fictional or descriptive representation in writing or speech, a musical or dramatic work, a cinematographic work, a photographic work or other work of fine art, a product of architecture, artistic handicraft, industrial art, or expressed in some other manner. (446/1995)

Maps and other descriptive drawings or graphically or three-dimensionally executed works, and computer programs, shall also be considered literary works. (34/1991)

Article 2

Within the limitations stated hereinafter, copyright shall include the exclusive right to control the work by making copies thereof and by making it available to the public, be it in the original or an altered form, in translation or adaptation, in other literary or artistic form, or by other technical means.

The recording of a work on a device, by which it can be reproduced shall also be considered the making of copies.

A work is made available to the public when it is performed in public or when copies of it are offered for sale, rental or lending, or otherwise distributed to the public or publicly exhibited. A performance which takes place within the framework of commercial activities for a comparatively large closed group of persons shall also be considered a public performance.

Article 3

When copies of a work are made or when the work is made available to the public in whole or in part, the name of the author shall be stated in the manner required by proper usage.

A work may not be altered in a manner which is prejudicial to the author's literary or artistic reputation, or to his individuality; nor may it be made available to the public in such a form or context as to prejudice the author in the manner stated.

The author may with binding effect waive his right, which he has under this Article, only in regard to use limited in character and extent.

Article 4

A person who translates or adapts a work or converts it into some other literary or artistic form shall have copyright in the work in that new form, but his right to control it shall be subject to the copyright in the original work.

If a person, in free connection with a work, has created a new and independent work, his copyright shall not be subject to the right in the original work.

Article 5

A person who, by combining works or parts of works, creates a literary or an artistic compilation work shall have copyright therein, but his right shall not restrict the rights in the individual works.

Article 6

If a work has two or more authors whose contributions do not constitute independent works, the copyright shall belong to the authors jointly. However, each one of them is entitled to bring an action for infringement.

Article 7

The person whose name or generally-known pseudonym or signature is stated in the usual manner on the copies of a work, or when the work is made available to the public, shall be deemed to be the author, in the absence of proof to the contrary.

If a work is published without the name of the author being stated in the manner described in the first paragraph, the editor, if he is named, and otherwise the publisher, shall represent the author until his name is stated in a new edition of the work or in a notification to the competent Ministry.

Article 8

A work shall be considered disseminated when it is lawfully made available to the public.

A work shall be considered published when copies thereof have, with the consent of the author, been placed on sale or otherwise distributed to the public. (648/74)

Article 9

There shall be no copyright in laws and decrees, or in decisions and declarations of public authorities and other public organs.

Article 10 (669/1971)

Notwithstanding the registration of a work as a design in accordance with special provisions, the author may have therein copyright based on this Act.

Provisions regarding rights in a photographic picture are additionally prescribed in Article 49 a. Separate provisions shall be issued regarding the legal protection of rights in layout-designs of integrated circuits. (446/1995)

CHAPTER 2 (446/1995)**Limitations on copyright***General provisions regarding limitations***Article 11** (446/1995)

The provisions of this Chapter shall not limit the author's right under Article 3 more extensively than as provided in Article 25 e.

When a work is used publicly on the basis of the provisions of this Chapter, the source shall be stated to the extent and in the manner required by proper usage. Without the consent of the author, the work shall not be altered more than necessitated by the permitted use.

*Reproduction for private use***Article 12** (446/1995)

Anyone may make single copies of a disseminated work for his private use. Such copies may not be used for other purposes.

It is also permitted to engage an outsider to make copies which are intended for the private use of the party ordering the copies.

What is provided in the second paragraph shall not apply to the reproduction of musical works, cinematographic works, useful articles or sculptures, or the copying of any other work of art by artistic reproduction.

The provisions of this Article shall not apply to a computer-readable computer program, to a computer-readable reproduction from a computer-readable database, or to the construction of a work of architecture. (250/1998)

*Photocopying***Article 13** (446/1995)

Anyone who has received authorization, from an organization representing a large number of

Finnish authors in a certain field, to make copies of published works by photocopying or analogous methods of reproduction shall also have the right to make copies by the same methods of published works of the same field the author of which is not represented by the organization. The terms determined in the authorization shall be observed in the case of such reproduction.

*Reproduction in educational activities***Article 14** (446/1995)

Whenever an organization representing a large number of Finnish authors in a certain field has given an authorization for the making, on agreed-upon terms, of copies by audio or video recording of a disseminated work included in a radio or television transmission, for use in educational activities or in scientific research, the recipient of the authorization may on corresponding terms make copies also of a work in the same field, included in a transmission, the author of which is not represented by the organization.

In educational activities it is permitted to make copies by direct audio or video recording of a disseminated work performed by a teacher or a student, for temporary use in educational activities. A copy thus made shall not be used for any other purpose.

Parts of a disseminated literary work or, when the work is not extensive, the whole work, may be incorporated into a test constituting part of the matriculation examination or into any other analogous test. A disseminated work of art may be reproduced in pictorial form for the same purpose.

*Reproduction in certain institutions***Article 15** (446/1995)

In hospitals, senior citizens' homes, prisons, and other similar institutions, copies of disseminated works included in radio and television transmissions may be made by audio and video recording for purposes of temporary use in the institution within a short period from the time of the recording.

Reproduction in archives, libraries and museums

Article 16 (446/1995)

Archives, libraries and museums, as defined by decree, shall have the right to make copies of a work for the purpose of their activities, on the conditions defined in the decree.

The provisions of the Act Regarding the Delivery and Deposit of Films in Archives (576/1984) shall be in force regarding the right of the Finnish Film Archive to make copies of a work included in a publicly shown Finnish film or in the advertising or other publicity materials of such a film.

*Reproduction for disabled persons***Article 17** (446/1995)

Copies of a published literary or musical work may be made with the purpose of rendering the text readable by visually impaired persons.

Institutions, as defined by decree, shall have the right, on the conditions defined in the decree, to make copies of a published literary work by sound recording for the purpose of being lent to visually impaired persons and to persons who, because of some other physical disability or illness, are unable to use books in the conventional manner.

*Compilation works for use in education***Article 18** (446/1995)

Minor parts of a literary or musical work or, if such a work is not extensive, the whole work, may be incorporated into a compilation work consisting of works of several authors and intended for use in education, after five years have passed since the year during which the work was published. In connection with the text, a disseminated work of art may be reproduced in pictorial form. The provisions of this Article shall not apply to a work created for use in education.

The author shall be entitled to remuneration for use under the preceding paragraph.

*Distribution of copies of a work***Article 19** (446/1995)

When a copy of a work has, with the consent of the author, been sold or otherwise permanently transferred, the copy may be further distributed.

Whatever is provided in the first paragraph shall not apply to making a copy of a work available to the public by rental or by a comparable legal act. However, a product of architecture, artistic handicraft, or industrial art may be rented to the public.

Whatever is provided in the first paragraph shall not apply to making a copy of a cinematographic work or of a computer-readable computer program available to the public by lending.

The author shall have the right to remuneration for the lending of copies of a work to the public, with the exception of products of architecture, artistic handicraft or industrial art. Remuneration may be claimed only for lending which has taken place within the last three calendar years. However, a right to remuneration shall not exist if the lending is from a public library or from a library serving research or educational activities.

*Exhibition of works***Article 20** (446/1995)

When a copy of a work has, with the consent of the author, been sold or otherwise permanently transferred, or when the work has been published, the work may be publicly exhibited.

*Public performing***Article 21** (446/1995)

A published work may be publicly performed in connection with divine services and education.

A published work may also be publicly performed in events where the performance of such works is not the main feature, provided that no admission fee is charged and the event is not arranged for profit. It may also be publicly performed in connection with popular education activities and for charitable or other non-profit purposes, provided the performer or, if there are several, all the performers receive no payment for their performance.

Whatever is provided in the first and second paragraphs shall, however, not apply to dramatic or cinematographic works.

Quotation

Article 22 (446/1995)

A disseminated work may be quoted, in accordance with proper usage, to the extent necessary for the purpose.

An article on a current topic

Article 23 (446/1995)

Articles in newspapers and periodicals on current religious, political, or economic topics may be included in other newspapers and periodicals, unless reproduction is expressly prohibited.

Concert programs

Article 24 (446/1995)

If a musical work is performed with text, the text may be incorporated in concert programmes, etc., for the use of the audience.

Use of works of art and buildings

Article 25 (446/1995)

Disseminated works of art may be reproduced in pictorial form in connection with the text:

(1) in a critical or scientific presentation; and

(2) in a newspaper or a periodical when reporting on a current event, provided that the work has not been created in order to be reproduced in a newspaper or a periodical.

When a copy of a work of art has, with the consent of the author, been sold or otherwise permanently transferred, or when a work of art has been published, the work of art may be incorporated into a photographic picture, a film, or a television program, provided such use is of secondary importance in the photograph, film or program.

Article 25 a (446/1995)

A work of art included in a collection, or exhibited, or placed on sale, may be reproduced in pictorial form in catalogues and notices concerning the exhibition or sale.

A work of art may also be reproduced in pictorial form when it is permanently situated at,

or in the immediate vicinity of, a public place. If the work of art is the leading motive of the picture, the picture shall not be used for the purpose of gain. A picture connected with a text may, however, be included in a newspaper or a periodical.

A building may be freely reproduced in pictorial form.

Presentation of a current event

Article 25 b (446/1995)

When current event is presented in a radio or television transmission or as a film, a work visible or audible in the current event may be included in the presentation to the extent required by the informational purpose.

Use of public statements

Article 25 c (446/1995)

Oral or written statements in a public representation or before an authority or at public meetings concerning matters of public interest may be used without the author's consent. However, statements as well as writings or similar works, cited as evidence, may be used only in connection with an account of the case or the matter in which they were used and only to the extent required by the purpose of such account. The author shall have the exclusive right to publish a compilation of his statements.

Publicity of documents and judicial procedures

Article 25 d (446/1995)

Copyright shall not limit the right, prescribed in law, to obtain information from a public document.

A work may be used when judicial procedures or public security so requires.

A work used on the basis of the first or second paragraph above may be quoted in accordance with Article 22.

Altering of buildings and useful articles

Article 25 e (446/1995)

Buildings and useful articles may be altered by the owner without the consent of the author, if considerations of a technical nature or reasons connected with the use so require.

Special provisions concerning radio and television transmissions

Article 25 f (446/1995)

A transmitting organization, whenever the organization has the right to transmit works on the basis of an agreement concluded with an organization representing a large number of Finnish authors in a specific field, may also transmit a work in the same field by an author not represented by the organization. Whatever is provided in this paragraph shall not, however, apply to a dramatic work, a cinematographic work, or even other works if the author has prohibited the transmitting.

Whatever is provided in the first paragraph shall not be applied to the retransmission of a work included in a radio or television transmission, the retransmission taking place simultaneously with the original transmission and without any change in the transmission.

Whatever is provided in the first paragraph shall apply to radio or television transmissions by satellite only if the satellite transmission is simultaneous with the terrestrial transmission by the same transmitting organization.

Article 25 g (446/1995)

If a transmitting organization has the right to transmit a work, the organization may also, on conditions prescribed by decree, for use in its own transmissions, record the work on a device by which it can be reproduced. The right to make the work available to the public by means of such recording shall be subject to the rules stated elsewhere regarding the dissemination of a work.

A transmitting organization may, when fulfilling its recording obligation based on law, make or have made by a third person a copy of a work included in a transmitted program.

Of a work included in a current events or news program transmitted on radio or television, single copies may be made for the internal communication purposes of a public authority, entrepreneur, or some other organization.

Article 25 h (446/1995)

Whenever an organization representing a large number of Finnish authors and approved by the Ministry of Education has given an authorization permitting a work included in a radio or television transmission to be retransmitted on the agreed-upon terms for reception by the public, simultaneously with the original transmission and without any change in the transmission, the

recipient of the authorization may, on the terms of the authorization, respectively retransmit also a work, included in the transmission, the author of which is not represented by the organization.

Whatever is provided in the first paragraph shall not be applied to cable retransmission of a work included in a transmission originating in another State belonging to the European Economic Area, provided its author has transferred the right to its cable retransmission to the transmitting organization the transmission of which the retransmission concerns.

The authorizations concerning the cable retransmission of works included in a transmission referred to in the second paragraph above, shall be granted simultaneously.

Whatever is provided in the first paragraph shall be applicable to a radio or television transmission by wire only if the transmission originates in another State belonging to the European Economic Area.

Article 25 i (446/1995)

A telecommunication company, which owns or administers a telecommunication network designed mainly for the distribution of television and radio-programs, may retransmit simultaneously with the original transmission, without any change and for reception by the public, a work included in a radio or television transmission referred to in the Article 42 (744/1998) of the Act on Television- and Radio Operations. (748/1998)

The author shall be entitled to remuneration for the retransmission. The remuneration can be paid only through an organization referred to in Article 25 h. Unless the remuneration is claimed verifiably within three years from the end of the year during which the right to remuneration came into being, the right to remuneration shall expire.

More detailed provisions regarding the application of the present Article shall, when necessary, be issued by decree.

Special provisions concerning computer programs and databases (250/1998)

Article 25 j (446/1995)

Whoever has legally acquired a computer program shall be entitled to prepare whatever copies of the program and make whatever alterations to the program are necessary for the use of the program for the intended purpose. This shall also apply to the correction of errors.

Whoever has a right to use a computer

program shall be entitled to prepare a back-up copy of the program, provided this is necessary for the use of the program.

Whoever has a right to use a computer program shall be entitled to observe, study or test the functioning of the computer program in order to determine the ideas and principles which underlie any element of the program if he does so while performing the acts of loading, displaying, running, transmitting or storing the program.

Whoever has a right to use a database shall be entitled to make copies of it and perform all other acts which are necessary for accessing a database and for the common use of its contents. (250/1998)

Any contractual provision limiting the use of the right in accordance with the second to fourth paragraphs shall be without effect. (250/1998)

Article 25 k (446/1995)

The reproduction of the code of a program and the translation of its form shall be permissible, provided that these acts are indispensable to obtain the information by means of which the interoperability of an independently created computer program with other programs can be achieved and that the following conditions are met:

(1) these acts are performed by the licensee or by another person having the right to use a copy of the program, or on their behalf by a person authorized to do so;

(2) the information necessary to achieve interoperability has not previously been readily available to the persons referred to in subparagraph 1; and

(3) these acts are confined to the parts of the original program which are necessary to achieve interoperability.

The information obtained under the provisions of the first paragraph shall not, on the basis of these provisions:

(1) be used for goals other than to achieve the interoperability of the independently created computer program;

(2) be given to others, except when necessary for the interoperability of the independently created computer program; or

(3) be used for the development, production or marketing of a computer program substantially similar in its expression, or for any other act which infringes copyright.

Any contractual provision limiting the use of a computer program in accordance with this Article shall be without effect.

Contractual license

Article 26 (446/1995)

Whatever the organization referred to in Article 13, Article 14, first paragraph, Article 25 f, first paragraph, or Article 25 h, first paragraph, may have stipulated regarding the distribution of remunerations for the reproduction of a work or for the transmitting of a work to authors represented by the organization, or regarding the use of the remunerations for joint purposes of the said authors, shall correspondingly be applied to authors who are not represented by the organization.

If the stipulations issued by the organization and referred to in the first paragraph do not provide, for the authors represented by the organization, the right to individual remuneration, an author not represented by the organization shall, however, have the right to claim an individual remuneration. The remuneration shall be paid by the organization referred to in the first paragraph. The right to individual remuneration shall, however, have expired if a claim concerning it has not been presented verifiably within three years from the end of the calendar year during which the reproduction of the work or the transmitting of the work took place.

CHAPTER 2 a (442/1984)

Compensation for the making of copies of a work for private use

Article 26 a (442/1984)

Whenever an audio or video tape or any other device on which a sound or an image can be recorded and which is suitable for making a copy for private use of a work transmitted by radio or television or a work on an audio or video recording, is produced or imported into the country for the purpose of distribution to the public, the manufacturer or the importer shall pay a levy, set on the basis of the playing time of the device, for use for compensations to be paid out to the authors of the said works and for joint purposes of authors. The compensations shall be paid out to the authors through an organization representing a large number of Finnish authors in a certain field, entitled to compensation.

Whoever offers for resale a device sold by a manufacturer or importer, as defined in the first paragraph, shall, upon request by the organization referred to in Article 26 b, show that the levy has been paid on the device. If the levy has not been

paid, the payment of the levy shall be made by the reseller. The latter shall, however, be entitled to request from the manufacturer or the importer reimbursement of the levy. (1254/1994)

The Ministry of Education shall annually set the amount of the levy after negotiating with the organizations representing the manufacturers and the importers, as well as the authors, referred to in first paragraph. The levy shall be set at such an amount that it can be regarded as fair compensation for the making of copies of works for private use. (1254/1994)

Article 26 b (442/1984)

The levy shall be collected by an organization representing a large number of Finnish authors, which organization the Ministry of Education has approved for this task for a fixed period of time, at maximum for five years. It shall be a prerequisite for the approval that the organization binds itself to use a proportion, annually agreed upon by the Ministry of Education and the said organization, of the proceeds of the levy for joint purposes of the authors in accordance with a plan approved by the Ministry of Education for the use of the levied funds.

Article 26 c (442/1984)

The Ministry of Education may issue to the organization more detailed regulations regarding the collection of the levy and the management of the funds levied. The Ministry shall control that the levy is collected in accordance with the instructions and that the plan for the use of the funds is upheld. The Ministry of Education shall have the right to obtain from the organization any information necessary for such control.

The Ministry of Education may withdraw its approval of an organization if the organization does not comply with the instructions issued to it or with the plan for the use of the funds, or if it does not provide the information required for the control.

Article 26 d (442/1984)

The organization shall have the right, notwithstanding the secrecy provisions of the Customs Act (573/78), to obtain from a customs authority, regarding individual import consignments, any information necessary for the collection.

The manufacturer or importer of a device and, when so separately requested by the organization, the seller referred to in Article 26 a, second paragraph, shall provide the organization with the

information, necessary for the collection, regarding the devices manufactured, imported or offered for sale by him. (1254/1994)

Whoever on the basis of the first, second, fifth or sixth paragraph has received information regarding the business activities of another shall not use it illegally or reveal it to others. (1254/1994)

A customs authority may hand over a contrivance to the importer only if the importer proves that he has made a payment of the levy to the organization or has posted for the organization a security, accepted by it, for the making of the payment. The organization may give its consent, for a predetermined period or indefinitely, for the handing over of a device before the making of the payment or the posting of a security, if there is well-founded ground to presume that the importer will make the payment appropriately. The organization may cancel such a consent if the importer neglects the making of the payment or the providing of the information referred to in the second paragraph. (34/1991)

A county government may, upon application by the organization, obligate the manufacturer, importer, or seller, as defined in Article 26 a, second paragraph, to fulfill his obligation referred to in the second paragraph, under threat of a fine. In the imposition of a conditional fine and in the ordering of the payment of such fine, the provisions of the Act regarding the Conditional Imposition of a Fine (1113/90) shall be complied with. (1254/1994)

The county government shall have the right to conduct an inspection for the purpose of surveillance of compliance with the obligation to make payment, as defined in Article 26 a, first paragraph. The manufacturer, importer, or seller of a device, as defined in Article 26 a, second paragraph, shall admit the person conducting the inspection to any business and storage premises, land areas, and vehicles in his possession and, when so requested, present his bookkeeping, business correspondence, data processing records, and any other documents which may have significance in the surveillance. The person conducting the inspection shall have the right to make copies of the documents to be inspected. The person conducting the inspection shall have the right to use as an expert a person appointed by the organization. The county government shall have the right to hand over to the organization any information necessary for the purposes of collection. (1254/1994)

The police shall be obligated, when

necessary, to provide official assistance to the county government in the performance of the functions pertaining to the county government under the sixth paragraph. (1254/1994)

Article 26 e (442/1984)

Whoever uses or exports a device shall have the right to receive from the organization repayment corresponding to the levy paid for devices:

- (1) which are exported;
- (2) which are used for professional audio or video recording;
- (3) which are used for the making of audio or video recordings intended for those with impaired vision or hearing; and
- (4) which the Ministry of Education has for an especially important reason exempted from the levy.

Unless such repayment is requested verifiably within three months from the end of the year during which the right to the repayment came into being, this right shall expire.

Article 26 f (442/1984)

If it can be proved that the user or the exporter would, under Article 26 e, first paragraph, have the right to repayment for all devices included in a certain batch manufactured or consignment imported, or for a considerable proportion of them, the levy may be left uncollected in respect to it.

Article 26 g (442/1984)

It shall not be allowed to appeal against a Ministry of Education decision by which the amount of the levy has been set on the basis of Article 26 a, second paragraph, or by which an organization has been approved on the basis of Article 26 b, or by which a device has been exempted from the levy on the basis of Article 26 e, first paragraph, fourth subparagraph.

Article 26 h (442/1984)

More detailed provisions regarding the application of Articles 26 a—26 g shall be issued by decree.

CHAPTER 2 b (446/1995)

Resale remuneration

Article 26 i (446/1995)

For professional and public resale of works of fine art the author has the right to receive as a

resale remuneration 5 per cent of the sales price, not including the value added tax, of the work sold.

There shall be no right to a resale remuneration for the resale of products of architecture or photographic works, or for the resale of products of artistic handicraft or industrial art which have been produced in a plurality of identical copies.

The right to remuneration shall be in force for the term of copyright protection. The right shall be personal and untransferable. However, what is provided in Article 41, first paragraph, shall be applied to the right. If there are no right-owners surviving the author, the remunerations shall be used for the joint purposes of authors.

Article 26 j (446/1995)

The resale remuneration shall be collected by an organization representing authors, approved for this function by the Ministry of Education for a predetermined period, at maximum five years. No appeal against the decision of the Ministry of Education regarding the approval of the organization can be made.

The Ministry of Education may issue to the organization more specific regulations regarding the collection of the remunerations and the use of the remuneration funds. The Ministry of Education shall have the right to obtain from the organization any information necessary for the purposes of surveillance.

Article 26 k (446/1995)

The right to remuneration shall come into existence when a work of fine art is sold. The right to remuneration shall lapse if a claim concerning it has not been presented verifiably to the organization within three years from the end of the calendar year during which the resale of the work took place.

The payment of the remuneration shall be the responsibility of a person who engages in the sale of, or serves as a middleman for, works of fine art, as defined in Article 26 i. The seller shall be obligated to submit annually to the organization, as defined in Article 26 j, an account of the sales of works. The seller shall be obligated, when so requested by the organization, to submit to the organization any information necessary for the verification of the correctness of the payments for at maximum three calendar years preceding the year of the payments.

Article 26 l (446/1995)

A county government may, upon application

by the organization, obligate the seller to fulfill his obligation referred to in Article 26 k, second paragraph, under threat of a fine. In the imposition of a conditional fine and in the ordering of the payment of such fine, the provisions of the Act regarding the Conditional Imposition of a Fine (1113/90) shall be complied with.

The county government shall have the right to conduct an inspection for the purpose of surveillance of compliance with the obligation to provide information and to give account, as defined in Article 26 k, second paragraph. The seller shall admit, for the purpose of the inspection, the person conducting the inspection to any business premises in the possession of the seller and, when so requested, present his bookkeeping, his business correspondence, and any documents concerning the sales subject to the obligation to pay remuneration, as well as any other documents which may have significance in the surveillance. The person conducting the inspection shall have the right to make copies of the documents inspected. The person conducting the inspection shall have the right to use as an expert a person appointed by the collecting organization. The county government shall have the right to hand over to the organization any information necessary for the purpose of collection.

The police shall be obligated, when necessary, to provide official assistance to the county government in the performance of the functions pertaining to the county government under the second paragraph.

Whoever under Article 26 k, second paragraph, or the present Article, has received information regarding the business activities of another shall not, without authorization, use the information or convey it to others.

Article 26 m (446/1995)

More specific provisions regarding the application of Articles 26 i—26 l may be issued by decree.

CHAPTER 3

Transfer of copyright

General provisions

Article 27

Copyright may be transferred entirely or partially, subject to the limitations of Article 3.

The transfer of a copy shall not include a transfer of the copyright. However, in the case of a portrait executed on commission, the author may not exercise his right without the permission of the person who commissioned it or, if said person is dead, the surviving spouse and heirs.

Provisions regarding the transfer of copyright in certain cases are issued in Articles 30—40 and 40 b. The said provisions shall, however, be applied only in the absence of an agreement to the contrary. (418/1993)

Article 28

In the absence of an agreement to the contrary, the person to whom a copyright has been transferred may not alter the work or transfer the copyright to others. If the copyright belongs to a business, it may be transferred together with the business or part thereof; however, the transferor shall remain liable for the fulfillment of the agreement.

Article 29 (960/1982)

The provisions of the Contracts Act (228/29) shall be in force with respect to the adjustment of an unfair term in an agreement made regarding the transfer of copyright.

Article 29 a (967/1997)

Where an author has transferred his rental right concerning a phonogram or a film to a phonogram or film producer, that author shall retain the right to obtain an equitable remuneration for the rental. The right to a remuneration cannot be waived by an author.

Public performance contracts

Article 30

If the right to perform a work publicly has been transferred, the transfer shall be valid for a period of three years and shall not imply exclusive right. If a longer term than three years has been settled upon, and an exclusive right has been agreed upon, the author may, nevertheless, himself perform the work or transfer the right of performance to others if that right has not been exercised for a period of three years.

The first paragraph shall not apply to cinematographic works.

Publishing contracts

Article 31

By a publishing contract the author transfers to the publisher the right to reproduce a literary or artistic work by printing or a similar process and the right to publish it.

The manuscript or other copy from which the work is to be reproduced shall remain the property of the author.

Article 32

The publisher shall have the right to publish one edition, which in the case of a literary work may not exceed 2000 copies, in the case of a musical work not exceed 1000 copies, and in the case of a work of art not exceed 200 copies.

By an edition is meant the number of copies which the publisher produces at one time.

Article 33

The publisher shall publish the work within a reasonable time, take care of its distribution in the usual manner, and follow up the publishing to the extent determined by marketing conditions and other circumstances. In case of default, the author may rescind the contract and keep the remuneration received. If the author has suffered damage not covered by the remuneration, such damage shall also be compensated for.

Article 34

If the work has not been published within two years or, if it is a musical work, within four years from the time at which the author submitted a complete manuscript or other copy for reproduction, the author may rescind the contract and keep the remuneration received, even if there is no fault on the part of the publisher. The same rule shall apply when the copies of the work are exhausted and the publisher has the right to publish a new edition, but he fails, within one year from being requested by the author to publish a new edition, to use the said right.

Article 35

The publisher shall provide the author with a certification from the printer, or whoever else reproduces the work, concerning the number of copies produced.

If during the fiscal year sale or hiring has taken place for which the author is entitled to remuneration, the publisher shall render account to him within nine months from the end of the year, stating the sale or hiring during the year and the number of copies in stock at the end of the

year. Also otherwise, after the end of the accounting term, the author shall be entitled to receive, at his request, a statement of the number of copies in stock at the end of the year.

Article 36

If the production of a new edition is initiated later than one year after publication of the previous edition, the author shall be given a chance before the production to make such alterations in the work as can be made without unreasonable cost and without changing the character of the work.

Article 37

The author shall not have the right to publish the work again in the form or manner intended in the contract, until the edition or editions which the publisher has the right to publish have been exhausted.

However, a literary work may be included by the author in an edition of his collected or selected works when fifteen years have elapsed from the year during which the publishing of the work was commenced.

Article 38

The provisions concerning publishing contracts shall not apply to contributions to newspapers and periodicals. Articles 33 and 34 shall not apply to contributions to other compilation works.

*Film contracts***Article 39**

Transfer of the right to produce a film of a literary or an artistic work shall include the right to make the work available to the public by showing the film in cinemas, on television or by any other means, and the right to provide the film with subtitles and to dub the film in another language. (648/1974)

The first paragraph shall not, however, apply to musical works.

Article 40

If the right to use a literary or musical work for a film intended for public showing is transferred, the transferee shall produce the film and make it available to the public within a reasonable time. If this is neglected, the author may rescind the contract and keep any

remuneration received. If the author has suffered damage not covered by the remuneration, such damage shall also be compensated for.

If the film has not been produced within five years from the time at which the author carried out his obligations, the author may rescind the contract and keep any remuneration received, even if there is no fault on the part of the transferee.

Computer programs and databases (250/1998)

Article 40 a

(Article 40 a was repealed by Act 418/1993, which came into force on January 1, 1994 by Decree 1395/1993.)

Article 40 b (34/1991)

If a computer program and a work directly associated therewith have been created within the scope of duties in an employment situation, the copyright in the computer program and the work shall pass to the employer. The same shall respectively apply to a computer program and a work directly associated therewith created within the scope of a civil service post.

The provisions of the first paragraph above shall not be applied to a computer program, or to a work directly associated therewith, created by an author independently engaged in teaching or research work in an institution of higher education, with the exception of institutions of military education. (418/1993)

The provisions in paragraphs 1 and 2 above shall apply correspondingly to a database, which is created while performing duties in employment relationship. (250/1998)

A portrait made by photographic means (446/1995)

Article 40 c (446/1995)

A party commissioning a portrait made by means of photography shall, even if the photographer has retained for himself the right to the work, have the right to authorize the including of the portrait in a newspaper, periodical or a biographical writing, unless the photographer has separately retained for himself the right to prohibit this.

Transfer of copyright upon the author's death and the legal seizure of copyright

Article 41

After the author's death, the rules governing marital right to property, inheritance and wills shall apply to copyright.

The author may give directions in his will, with binding effect also on the surviving spouse and direct descendants, adopted children and their descendants, as to the exercise of copyright, or authorize somebody else to give such directions.

Article 42

Copyright shall not be subject to legal seizure as long as the copyright remains with the author or with any other person who has acquired the copyright by virtue of marital right to property, inheritance or will. The same rule shall apply to manuscripts and works of art which have not been exhibited, placed on sale, or otherwise authorized for dissemination.

CHAPTER 4

Duration of copyright

Article 43 (1654/1995)

Copyright shall subsist until the end of the seventieth year after the year in which the author died or, in the case of a work referred to in Article 6, after the year in which the last surviving author died. Copyright in a cinematographic work shall subsist until the end of the seventieth year after the year in which the last of the following persons to survive died: the principal director, the author of the screenplay, the author of the dialogue and the composer of music specifically created for use in the cinematographic work.

Article 44 (1654/1995)

In the case of a work disseminated without mention of the author's name or generally known pseudonym or signature, the copyright shall subsist until the end of the seventieth year after the year in which it was disseminated. If the work is published in parts, the term of protection shall run for each part separately.

If the identity of the author is disclosed during the period referred to in the first paragraph, Article 43 shall apply.

In the case of a non-disseminated work, the author of which is unknown, the copyright shall

subsist until the end of the seventieth year after the year in which the work was created.

Article 44 a (1654/1995)

Anyone who for the first time publishes or disseminates a previously unpublished or non-disseminated work, which has been protected under Finnish law and the protection of which has expired, shall be entitled to a right in the work as provided in Article 2 of this Act. The right shall subsist until the end of the twenty-fifth year after the year in which the work was published or disseminated.

CHAPTER 5

Certain rights neighbouring copyright

Article 45 (446/1995)

Without the consent of the performing artist, a performance of a literary or artistic work shall not:

(1) be recorded on a device by means of which the performance can be reproduced; and not

(2) be made available to the public by means of radio or television or by direct communication.

A performance recorded on a device referred to above in the first paragraph shall not, without the consent of the performing artist, be copied or distributed to the public until 50 years have elapsed from the year in which the performance took place. If the recording of the performance is published or disseminated within this period, the protection shall subsist until the end of the fiftieth year after the year during which the recorded performance was for the first time published or disseminated. (1654/1995)

The transfer of the right to film a performance shall, unless otherwise agreed, comprise the right to distribute the recorded performance to the public by renting.

Whatever is provided in Article 3, Articles 6—8, Article 11, Article 12, first to third paragraphs, Article 14, first paragraph, Articles 15 and 16, Article 17, second paragraph, Article 19, first and second paragraphs, Articles 21, 22, 25 b, 25 d, 25 g to 25 i, 26 a to 26 h, Article 27, first and second paragraphs, and Articles 28, 29, 29a, 41 and 42 shall correspondingly be applied to the recording of a performance, its copying, making it available to the public, and its distribution, as defined in this Article. However, Article 19, first paragraph, shall be applied only if the recorded performance has, with the consent of the performing artist,

been sold or been otherwise permanently transferred within the European Economic Area. (967/1997)

Article 46 (446/1995)

A phonograph record or other device on which sound has been recorded shall not, without the consent of the producer, be copied or distributed to the public until 50 years have elapsed from the year during which the recording took place. If the recording is published or disseminated within this period, the protection shall subsist until the end of the fiftieth year after the year during which the recording was for the first time published or disseminated. (1654/1995)

The provisions of Articles 6—8, Article 12, first to third paragraphs, Article 14, first paragraph, Articles 15 and 16, Article 19, first and second paragraphs, Articles 22, 25 b, 25 d, 25 g, 26 a—26 h, Article 27, first and second paragraphs, and Article 29 shall correspondingly be applied to any procedure for which the consent of the producer is required under the first paragraph. However, Article 19, first paragraph, shall be applied only if the device, as defined in the first paragraph, has, with the consent of the producer, been sold or been otherwise permanently transferred within the European Economic Area.

Article 46 a (446/1995)

A film or any other device on which moving images has been recorded shall not, without the consent of the producer, be copied or distributed to the public until 50 years have elapsed from the year during which the recording took place. If the recording is published or disseminated within this period, the protection shall subsist until the end of the fiftieth year after the year during which the recording was for the first time published or disseminated. (1654/1995)

The provisions of Articles 6—8, Article 12, first to third paragraphs, Article 14, first paragraph, Articles 15 and 16, Article 19, first and second paragraphs, Articles 22, 25 b, 25 d, 25 g, 26 a—26 h, Article 27, first and second paragraphs, and Article 29 shall correspondingly be applied to a procedure for which the consent of the producer is required under the first paragraph. However, Article 19, first paragraph, shall be applied only if the device, as defined in the first paragraph, has, with the consent of the producer, been sold or been otherwise permanently transferred within the European Economic Area.

Article 47 (446/1995)

If a device referred to in Article 46 is used, within the term defined in that Article, directly or indirectly in a radio or television transmission or in any other public performance, a remuneration shall be paid to the producer and to the performing artist whose performance has been recorded on the device. If two or more artists have participated in the performance, they may realize their right only jointly. The performing artist and the producer may realize their rights only by presenting their claims simultaneously. When the right is realized through an organization representing a large number of Finnish performing artists or producers, the right of a performing artist or a producer to remuneration shall, however, have lapsed if a claim concerning it has not been verifiably presented to the organization within three years from the end of the calendar year during which the use took place. (365/1997)

In cases referred to above in the first paragraph, the provisions of Articles 21, 22, 25 b, Article 27, first and second paragraphs, and Article 29, and as regards the right of the performing artist, also the provisions of Article 11, second paragraph and Articles 28, 41 and 42 shall correspondingly be applied.

If a user of the device does not pay a remuneration referred to in the first paragraph, the amount of which the user has agreed upon with the performing artists and producers, or the amount of which has been settled in a procedure under Article 54, a court of justice may, upon request by a party concerned, decide that such use may continue only with the consent of the performing artists and producers until the remuneration has been paid.

Whatever is provided in this article shall not apply to a device referred to in Article 46 a.

Article 47 a (446/1995)

Whenever a device referred to in Article 46 has been used in a radio or television transmission which, simultaneously and unaltered, is retransmitted for reception by the public, the performing artist and the producer of the device shall be entitled to remuneration for the retransmission. The remuneration can be paid only through an organization referred to in Article 25 h. Unless remuneration is verifiably claimed within three years from the end of the year during which the right to remuneration came into being, the said right to remuneration shall

expire.

Whatever is provided in this Article shall not apply to a device referred to in Article 46 a.

Article 48 (446/1995)

A radio or television transmission shall not, without the consent of the transmitting organization, be retransmitted or recorded on a device by means of which it can be reproduced. A television transmission shall also not, without such consent, be made available to the public on premises to which the public has admission in return for payment.

A recorded transmission shall not be copied, retransmitted or distributed to the public without the consent of the transmitting organization until 50 years have elapsed from the year during which the first transmission took place. (1654/1995)

The provisions of Articles 6—8, Article 12, first and second paragraphs, Article 15, Article 19, first paragraph, Articles 21, 22, 25 b, 25 d and 25 g, Article 27, first and second paragraphs, and Article 29 shall correspondingly be applied in the cases referred to in the first and second paragraphs above. Furthermore, whatever is provided in Article 25 h, first paragraph, and Article 25 i shall correspondingly be applied to the cable retransmission of a transmission, except if the transmission originates in another State belonging to the European Economic Area, in which case whatever is provided in Article 25 h, third paragraph, shall correspondingly be applied instead of these provisions. However, Article 19, first paragraph, shall be applied only if the recorded transmission has, with the consent of the transmitting organization, been sold or been otherwise permanently transferred within the European Economic Area.

Article 49 (250/1998)

A person who has made

- 1) a catalogue, table, program or any other production in which a large quantity of data are compiled, or
- 2) a database which shows that there has been a substantial investment in either the obtaining, verification or presentation of the contents,

has the exclusive right to dispose of the whole or of a substantial part, evaluated qualitatively or quantitatively, of the production by making copies of it and by making it available to the public.

The right laid down in paragraph 1 shall subsist until 15 years have elapsed from the year in which the production was completed, or if the

production was made available to the public before the end of that time, until 15 years have elapsed from the year in which the production was first made available to the public.

The provisions of the Article 2, second and third paragraphs, Articles 8 and 9, Article 11, second paragraph, Article 12, first, second and fourth paragraphs, Article 13, Article 14, first to third paragraphs, Articles 15—18, Article 19, first and second paragraphs, Articles 22, 25 b—25 d, 25 f—25 i, Article 25 j, fourth and fifth paragraphs, and Article 26 shall correspondingly be applied to a production referred to above in the first paragraph. If such a production or a part of it is subject to copyright, that right may be claimed.

Any contractual provision under which the maker of the published production referred to above in the first paragraph prevents the lawful user from using insubstantial parts of its contents, evaluated qualitatively or quantitatively, for any purpose whatsoever, or restricts such a use, shall be without effect.

Article 49 a (446/1995)

The photographer shall have the exclusive right to control a photographic picture, unaltered or altered:

- (1) by making copies thereof; and
- (2) by exhibiting it publicly.

The right to a photographic picture shall be in force until 50 years have elapsed from the end of the year during which the photographic picture was made.

Whatever is provided in Article 2, second paragraph, Article 3, first and second paragraphs, Articles 7—9 and 11, Article 12, first and second paragraphs, Article 13, Article 14, first and third paragraphs, Articles 15, 16, 18, 20, 22 and 25, Article 25 a, first and second paragraphs, Articles 25 b, 25 d, 25 f—25 i, 26, 26 a—26 h, 27—29, 39, 40, 40 c, as well as Articles 41 and 42, shall correspondingly be applied to photographic pictures referred to in this Article. If a photographic picture is subject to copyright, that right may be claimed.

Article 50

A press report which is supplied by a foreign press agency or by a correspondent abroad by virtue of a contract, may not be made available to the public by means of a newspaper or radio without the consent of its recipient, until twelve hours have elapsed from its dissemination in Finland.

CHAPTER 6 Special provisions

Article 51

A literary or artistic work shall not be made available to the public under such a title, pseudonym or signature that the work or its author easily may be confused with a previously disseminated work or its author.

Article 52

The inscribing by a third party of the name or signature of the author onto a copy of a work of art is permissible only upon the instructions of the author.

The name or signature of the author shall not be placed onto a copy of a work of art in such a manner that the copy could be confused with the original work.

Whoever makes or distributes to the public a copy of a work of art shall mark the copy in such a manner that the copy cannot be confused with the original work. (446/1995)

Article 52 a (446/1995)

The author of a work of fine art shall have the right of access to see the work he has transferred, unless this causes unreasonable inconvenience to the owner or holder of the work, and provided this is necessary:

- (1) for the author's artistic activity; or
- (2) for the purpose of effectuation of his economic rights, as defined in Article 2.

Whatever is provided in Article 41 shall be applied to the right referred to above in the first paragraph, second subparagraph.

Article 53

If, after the death of the author, a literary or artistic work is the subject of public action in a manner which violates cultural interests, the authority designated by decree shall have the right to prohibit such action, notwithstanding the fact that the copyright is no longer in force, or that copyright may not even have existed.

The person who is the object of such measures may, if he opposes them, have the question submitted to the decision of a court of justice.

Article 54 (446/1995)

In the event of a dispute, the matter shall be settled by an arbitration procedure in the manner prescribed by decree, whenever the question

concerns:

(1) Remuneration referred to in Article 18, second paragraph; Article 19, fourth paragraph; Article 25 i, Article 47, first paragraph; or Article 47 a;

(2) Granting of an authorization referred to in Article 13, and the terms thereof, if the matter relates to the making of copies for use in educational activities;

(3) Granting of an authorization referred to in Article 14, first paragraph, and the terms thereof, if the matter relates to the making of copies of a work included in a program which has been produced and transmitted for educational purposes;

(4) Granting of an authorization referred to in Article 25 h, first paragraph, and the terms thereof; or

(5) Granting of an authorization referred to in Article 25 h, second paragraph, or Article 48, first paragraph, regarding simultaneous and unaltered cable retransmission of a radio or television transmission, and the terms of such authorization, provided the transmission originates in another State belonging to the European Economic Area. An authorization may be granted if the transmitting organization, without a well-founded reason, prohibits cable retransmission or sets unreasonable terms therefor.

The parties concerned may also agree that the matter be submitted to arbiters to settle in compliance with the Act regarding Arbitration (967/92).

Any authorization granted on the basis of the present Article shall have the same effect as has the authorization referred to in Article 13, Article 14, first paragraph, Article 25 h, first or second paragraph, or Article 48, first paragraph.

If a party concerned refuses the settling by arbitration of a matter referred to in the first paragraph, the matter may, upon application by a party concerned, be submitted to a court of justice for settling. The court of justice having jurisdiction in matters referred to in the first paragraph shall be the District Court of Helsinki. If the Court has granted authorization in a matter referred to in the first paragraph, second to fourth subparagraphs, and an appeal is made from the decision, the authorization and its terms shall be in force temporarily, until the matter has been settled with finality or until a higher court orders otherwise upon the appeal.

Article 54 a (897/1980)

Whatever has been provided in this Act

regarding educational activities shall not apply to educational activities conducted for purpose of gain.

Article 54 b (446/1995)

If there is a risk that remuneration referred to in Article 47 cannot be paid to the person entitled to it, a court of justice may, upon the request of said person, prohibit the user of the devices referred to in Article 46 from using said devices until he posts an acceptable security for the payment of remunerations or until a court of justice orders otherwise upon a claim by a party concerned. The applicable parts of the provisions of Articles 4, 5, 7, 8, 11 and 14 of Chapter 7 of the Code of Procedure shall be complied with in the matter.

Article 55 (442/1984)

The Council of State shall appoint a Copyright Council the function of which shall be to assist the Ministry of Education in the handling of matters pertaining to copyright and to issue statements regarding the application of the present Act.

More detailed provisions regarding the Copyright Council shall be issued by decree.

CHAPTER 7

Penal Sanctions and Liability

Article 56 (715/1995)

Punishment for a copyright offence is prescribed in Article 1 of Chapter 49 of the Penal Code.

Article 56 a

Anyone who

(1) wilfully or out of gross negligence violates a provision issued for the protection of copyright in the present Act or acts in violation of a direction issued under Article 41, second paragraph, of a provision of Article 51 or 52, or of a prohibition referred to in Article 53, first paragraph, or Article 54 b; or

(2) imports into the country a copy of a work for distribution to the public, which copy he knows or has well-founded reason to suspect to have been produced outside the country under such circumstances that such production in Finland would have been punishable under the present Act,

shall, unless the act is punishable as a copyright crime under Article 1 of Chapter 49 of

the Penal Code, be sentenced for a **copyright violation** to a fine. (1024/1995)

However, the making of single copies for private use of a computer-readable computer program or a database which has been published or copies of which have, with the consent of the author, been sold or otherwise permanently transferred, shall not be held to be a copyright violation. (250/1998)

Article 56 b (1024/1995)

A violation of the provisions of Article 26 d, third paragraph, or Article 26 l, fourth paragraph, regarding confidentiality shall be punishable under Articles 1 or 2 of Chapter 38 of the Penal Code, unless the act is punishable under Article 5 of Chapter 40 of the Penal Code or unless a more severe punishment has been provided for the act elsewhere in law.

Article 56 c (418/1993)

Whoever for the purpose of gain distributes to the public, or for this purpose keeps in his possession, any means the sole purpose of which is the unauthorized removal or circumvention of a technical device protecting a computer program shall be sentenced to a fine for **unauthorized distribution of a means for removing protection**.

Article 56 d (446/1995)

Whoever wilfully or out of gross negligence violates the provision of Article 26 d, second paragraph, or the obligation to provide information or to give account, provided in Article 26 k, second paragraph, shall be sentenced to a fine for **a violation of the obligation to provide information, prescribed in the Copyright Act**, unless a more severe punishment has been provided for the act elsewhere in law.

Article 57 (442/1984)

Anyone who uses a work in violation of the present Act or a direction given under Article 41, second paragraph, shall be obligated to pay the author a fair compensation for such use.

If such use is wilful or out of negligence, the infringer shall, in addition to compensation, also pay damages for any other loss, as well as for mental suffering and for other injury.

Anyone who, otherwise than by using a work, is guilty of an act punishable under Article 1 of Chapter 49 of the Penal Code, or Article 56 a of the present Act, shall be obligated to pay the

author damages for any loss, mental suffering or other injury caused by the crime. (715/1995)

The provisions of the Act regarding Damages and Tort Liability (412/74) shall also be applied regarding the damages referred to above in the second and third paragraphs.

Article 58

If a copy of a work has been produced, imported, made available to the public, or altered contrary to this Act, or to a direction given under Article 41, second paragraph, or to the provisions of Article 51 or 52, or to a prohibition pronounced under Article 53, first paragraph, the Court may, upon the demand of the injured party, prescribe, according to what it deems reasonable, that the copy, as well as any type matter, printing blocks, moulds and other devices intended for the making of a copy, shall be destroyed, or that such property shall be altered in specific ways, or be conveyed to the injured party against a compensation corresponding to their cost of manufacture, or be rendered such that their unauthorized use is prevented.

The provisions of the first paragraph shall not apply to a person who has acquired the property or some specific right therein in good faith, or to works of architecture; however, the modification of a building may be ordered according to circumstances.

Article 59

Notwithstanding the provisions of Article 58, first paragraph, the Court may — upon a request of that effect — permit, if considered reasonable by the artistic or economic value of the copies referred to in the said paragraph, or by other circumstances, that the copies be made available to the public or otherwise used according to their purpose in return for specific compensation to the injured party.

Article 60 (715/1995)

The provisions of Articles 56 a, 57, 58 and 59 shall apply correspondingly to the rights protected under Chapter 5.

Article 61

The District Court of Helsinki shall have jurisdiction in cases involving radio or television transmissions which violate this Act.

Article 62

A violation of the provisions of Article 51 or 52 shall be subject to public prosecution. In other

cases a criminal action for a copyright violation shall not be brought by a public prosecutor, unless the injured party has reported it for the purpose of prosecution. (715/1995)

An action for violation of Article 3 or a direction given under Article 41, second paragraph, may be brought by the surviving spouse, by heirs in the ascending or descending line or brothers and sisters, or by a person who by virtue of adoption is related to the author in the same manner. Violation of a prohibition pronounced under Article 53, first paragraph, shall be denounced by the authority specified therein.

(Third paragraph has been repealed by Act 442/1984.)

CHAPTER 8

Applicability of the Act

Article 63 (648/1974)

The provisions of this Act relating to copyright shall apply:

(1) to works of which the author is a Finnish national or a person having his habitual residence in Finland;

(2) to works first published in Finland or published in Finland within thirty days of being first published in another country;

(3) to cinematographic works of which the producer has his headquarters or habitual residence in Finland;

(4) to works of architecture located in Finland; and

(5) to works of art incorporated in a building located in Finland or fixed to the ground by any other means.

For the purposes of application of the third subparagraph above, the producer of the cinematographic work shall, unless otherwise indicated, be deemed to be the person or company whose name is mentioned in the usual manner in the cinematographic work.

The provisions of Chapter 2 b of the Copyright Act shall be applied if the author of the work is a national of a State belonging to the European Economic Area or if he has his habitual residence in such a State. (446/1995)

The provisions in Articles 51—53 above shall be applied regardless of who created the work and where the work was published. (446/1995)

Article 63 a (1654/1995)

The provisions in Article 44 a shall be applied to a person who is a national of a State belonging

to the European Economic Area or has his habitual residence in such a State, and to a body corporate having its residence in such a State.

Article 64 (446/1995)

The provisions in Article 45 above shall be applied if:

(1) the performance takes place in Finland;

(2) the performance has been recorded on a device referred to in the second paragraph; or

(3) the performance, which has not been recorded on a phonogram, is included in a transmission referred to in the sixth paragraph.

The provisions in Article 46 above shall be applied to a device the sound on which has been recorded on the device in Finland.

The provisions in Article 46 a above shall be applied to a device the moving images on which has been recorded on the device in Finland.

The provisions in Article 47 above shall be applied to radio and television transmissions taking place in Finland and to any other public performance taking place in Finland, if a device, as defined in the second paragraph, is used in the transmission or performance.

The provisions in Article 47 a above shall be applied to all radio and television transmissions and to any retransmitting taking place in Finland, if a device, as defined in the second paragraph, is used in the transmission.

The provisions in Article 48 above shall be applied:

(1) to radio and television transmissions taking place in Finland; and

(2) to radio and television transmissions taking place elsewhere, if the headquarters of the transmitting organization is in Finland.

The provisions of Article 49, paragraph 1, subparagraph 1 above shall be applied to a production which was first published in Finland. The provisions of Article 49, paragraph 1, subparagraph 2 above shall be applied to a production which was made by a person who is a national of a state belonging to the European Economic Area or by a maker who permanently resides in such a state. The provisions of Article 49, paragraph 1, subparagraph 2 above shall also be applied to a production the maker of which is a company or firm formed in accordance with the law of a state belonging to the European Economic Area. If such a company or firm has only its registered office in the territory of the European Economic Area, the provisions of Article 49, paragraph 1, subparagraph 2 above shall be applied only if its operations are

genuinely linked on an ongoing basis with the economy of a state belonging to the European Economic Area. (250/1998)

Whatever is provided regarding a work in Article 63, first paragraph, first, second and fifth subparagraphs, shall correspondingly be applied to a photographic picture referred to in Article 49 a.

The provisions in Article 50 above shall be applied to a press report which has been received in Finland.

Article 64 a (446/1995)

When programme-carrying signals, intended for reception by the public and carrying a work protected under the present Act, are introduced in Finland, under the control and responsibility of a transmitting organization, into an uninterrupted chain of communication leading to a satellite and back down towards the earth, the provisions of Article 2 regarding making available to the public and other provisions of the present Act regarding radio and television transmissions shall be applied to this communication to the public by satellite.

If a satellite communication to the public, as defined in the first paragraph, takes place in a State outside the European Economic Area, the level of protection in the legislation of that State not corresponding to the level of protection provided in Chapter 2 of the Council Directive (93/83/EEC) on the Coordination of Certain Rules Concerning Copyright and Rights Related to Copyright Applicable to Satellite Broadcasting and Cable Retransmission, and

(1) the signals are transmitted towards the satellite from a transmission station situated in Finland, or

(2) in a case in which a transmitting station situated in Finland is not used, a transmitting organization established in Finland has commissioned others to carry out the act of communication,

then the communication to the public by satellite shall be deemed to take place in Finland. The provisions of Article 2 regarding making available to the public and other provisions in the present Act regarding radio and television transmissions shall be applied thereto.

Article 65

On condition of reciprocity, the President of the Republic may provide for the application of this Act in relation to other countries and similarly for

application to works first published by an international organization and to unpublished works which such organization has a right to publish.

Article 66

Subject to the provisions of Articles 67—71, this Act shall apply also to literary or artistic works completed before it comes into force.

Article 67

Copies of a work produced under the previous law may be freely distributed and exhibited. However, what is provided in Article 23 shall apply to the lease of sheet music and to the right to fix a payment by decree.

Article 68

Type matter, printing blocks, moulds and other devices produced under the previous law for the reproduction of a particular work may be used according to their purpose until the end of 1962, notwithstanding the provisions of the present Act. The provisions of Article 67 shall correspondingly be applied to copies produced in the course of such use.

Article 69

Copyright in newspapers, periodicals, and other works which consist of independent contributions by several contributors and which are published before this Act comes into force shall belong to the editor in accordance with Article 5, and the term of protection shall be calculated according to Article 44.

Article 70

The previous law shall apply to contracts regarding transfer of copyright concluded before the coming into force of the present Act, but the provisions of Article 29 shall be complied with even regarding such contracts.

Any privileges and injunctions applicable at the time of the coming into force of the present Act shall remain in force.

Article 71

If, before the coming into force of this Act, an author has transferred a work of art, or has executed a drawing on commission, his right to transfer a duplicate of the same work of art to a third party or to make for a third party a work based upon the same drawing, shall be governed

by the provisions of the previous law. The previous law shall also apply to a portrait executed before the coming into force of this Act, insofar as concerns the rights of the author in respect thereof.

Article 72

The provisions of Articles 66—68 shall apply correspondingly to the rights protected under Chapter 5. (1654/1995)

If an agreement concerning such recording, as defined in Article 45, has been made before this Act comes into force, the provision of Article 70, first paragraph, shall apply correspondingly.

Article 73

This Act shall come into force on September 1, 1961. It abrogates the Act of June 3, 1927 (No. 174/27) on Copyright in Products of Intellectual Activity, as well as Article 28 of the Decree of March 15, 1880 (No. 8/80) Relating to the Rights of Writers and Artists in Respect of the Products of Their Labour.

Implementing provisions of Copyright Act amendments

July 8, 1961 / 404 (Published July 18, 1961)

August 23, 1971 / 669 (Published September 6, 1971)

July 31, 1974 / 648 (Published August 8, 1974):

This Act shall come into force on October 1, 1974.

December 19, 1980 / 897 (Published December 23, 1980):

This Act shall come into force on December 29, 1980.

December 17, 1982 / 960 (Published December 22, 1982):

This Act shall come into force on January 1, 1983. It shall also be applied to any agreements on the transfer of copyright made before the coming into force of the Act.

June 8, 1984 / 442 (Published June 13, 1984):

This Act shall come into force on June 15, 1984.

July 27, 1984 / 578 (Published August 3, 1984):

This Act shall come into force on October 1, 1984.

January 24, 1986 / 54 (Published January 28, 1986):

This Act shall come into force on February 1, 1986.

March 13, 1987 / 309 (Published March 20, 1987):

This Act shall come into force on June 1, 1987.

January 11, 1991 / 34 (Published January 16, 1991):

This Act shall come into force on January 16, 1991.

Article 23, second paragraph, of this Act shall not be applied to a computer program created before the coming into force of this Act insofar as the lending of the computer program to the public is concerned. In other respects, provisions regarding the application of this Act to a computer program created before the coming into force of this Act shall be prescribed separately. (419/1993) (According to **the Implementing**

Decree 1395/1993, issued on December 22, 1993, the amendment shall come into force on January 1, 1994).

A performance of a literary or artistic work by a performing artist, a device on which sound has been recorded, and a radio or television transmission which has been recorded or transmitted after September 1, 1961 shall be protected as provided in this Act.

Whoever has taken steps to use, in the manner defined in Article 45, 46 or 48 of the Copyright Act, a performance, phonogram, or radio or television transmission the protection of which has expired before the coming into force of this Act shall, notwithstanding the provisions of the third paragraph, be permitted to use the said performance, phonogram or transmission for two years after the end of the calendar year during which this Act came into force.

If 15 years have elapsed from the end of the year during which a production, defined in Article 49 of the Copyright Act and enjoying protection at the time of the coming into force of the present Act, was completed, that protection shall lapse at the time the present Act comes into force.

May 7, 1993 / 418 (Published May 12, 1993):

This Act shall come into force at a time to be prescribed by decree. Article 23, third paragraph, of the Act shall, however, come into force on June 1, 1993.

This Act shall also be applied to a computer program created before the coming into force of this Act. However, provisions in force at the time of the coming into force of this Act shall be applied to any acts done and any rights acquired before the coming into force of this Act.

Whatever is provided in the second paragraph shall, after the coming into force of this Act, also apply to the application of provisions regarding computer programs in the Act (34/91) amending the Copyright Act, issued on January 11, 1991, with the exception of the provisions regarding the lending of computer programs to the public.

Decree No. 1395, December 22, 1993 (Published December 28, 1993):

Article 1

The following Acts shall come into force on January 1, 1994:

2) Act (418/93), issued on May 7, 1993, amending the Copyright Act; and

3) Act (419/93), issued on May 7, 1993,

amending the implementing provision of the Act amending the Copyright Act.

December 16, 1994 / 1254 (Published December 22, 1994):

This Act shall come into force on January 1, 1995.

March 24, 1995 / 446 (Published March 30, 1995):

This Act shall come into force on May 1, 1995.

This Act shall also be applied to any works and any protected items, defined in Articles 45, 46, 48 and 49 a, which were created, recorded or produced before the coming into force of this Act and which continue to be protected. However, the provisions in force at the time of the coming into force of this Act shall be applied to any acts done and any rights acquired before the coming into force of this Act.

An agreement on filming or sound recording, made by a performing artist before the coming into force of this Act shall cover the right to distribute copies of the film or phonogram to the public, unless otherwise agreed.

An agreement on the inclusion of a phonogram in a film, made by the producer of the phonogram before the coming into force of this Act, shall cover the right to distribute copies of the film to the public, unless otherwise agreed.

The provisions of Articles 25 f and 64 a of this Act shall be applied as of January 1, 2000 to any agreements on satellite broadcasting of works and performances which were made before the coming into force of this Act.

April 21, 1995 / 715 (Published April 28, 1995):

This Act shall come into force on September 1, 1995.

August 21, 1995 / 1024 (Published August 22, 1995):

This Act shall come into force on September 1, 1995.

This Act repeals Article 56 a, first paragraph, and Article 56 b in the Act (715/95), amending the Copyright Act, issued on April 21, 1995.

December 22, 1995 / 1654 (Published December 28, 1995):

This Act shall come into force on January 1, 1996.

This Act shall also be applied to works created before the coming into force of this Act.

The provisions in force on the entry into force of this Act shall be applied to any contracts concluded and any rights acquired before the coming into force of this Act.

Copies of a work which have been produced prior to the coming into force of this Act under provisions in force on the entry into force of this Act, may further be distributed to the public and publicly exhibited. The provisions of Article 19, second to fourth paragraphs, and Chapter 2 b of this Act shall, however, be applied also to copies produced before the coming into force of this Act.

Notwithstanding the provisions of this Act, any person who before the coming into force of this Act has commenced to use a work, the term of protection of which has expired prior to the coming into force of this Act, by making copies thereof or making the work available to the public in a manner which has required substantial measures, may proceed to complete the commenced use to a normal extent necessary for the said use by January 1, 2003. Provisions on the completion of commenced use above shall also apply to any person who, under similar circumstances, has taken substantial measures to make copies of a work or to make a work available to the public. Copies made by virtue of the provisions in this paragraph may further be distributed to the public and publicly exhibited, subject to the provisions of Article 19, second to fourth paragraphs, and Chapter 2 b of this Act.

Notwithstanding the provisions of this Act, if a work is incorporated in a recording made by a transmitting organization after the expiry of the protection and prior to the coming into force of this Act, with a particular view to use in radio or television transmissions, the work may further be used in transmissions until January 1, 2003. This paragraph shall also apply to the public performance of a work which has been incorporated in a recording containing film.

The provisions of second to sixth paragraphs above shall apply correspondingly to subject matter protected pursuant to Articles 45, 46, 46 a and 48 of this Act.

The provisions of second to sixth paragraphs above shall apply

1) to works originating in a State belonging to the European Economic Area,

2) to subject matter referred to in paragraph 7 above originating in a State belonging to the European Economic Area, in regard to the protection of which special provisions have been enacted in Finland, and

3) to rights in phonograms referred to in Article 14, first, second and fourth paragraphs of the Agreement on Trade-Related Aspects of Intellectual Property Rights annexed to the Agreement Establishing the World Trade Organization, as prescribed in paragraph 6 of the aforesaid Article.

This Act shall apply to works and subject matter other than those referred to in paragraph 8 above only in so far as they are protected at the time of the coming into force of this Act.

April 25, 1997 / 365 (Published April 30, 1997):

This Act shall come into force on May 15, 1997.

October 31, 1997 / 967 (Published November 5, 1997):

This Act shall come into force on November 10, 1997.

This Act shall also be applied to works created before the coming into force of this Act and which continue to be protected.

The provisions in force at the time of the coming into force of this Act shall be applied to any acts done before the coming into force of this Act.

The provision of Article 29 a shall be applied to agreements made at earliest on the November 19, 1992. However, the right to remuneration based on the agreements made before July 1, 1994, shall stand only, if the author has presented a claim concerning it before January 1, 1997.

The provisions of second to fourth paragraphs shall apply correspondingly to performing artists and subject matter protected pursuant to Article 45 of this Act.

April 3, 1998 / 250 (Published April 9, 1998):

This Act shall come into force on April 15, 1998.

This Act shall also be applied to works created before the coming into force of this Act, and to subject matter protected pursuant to Article 49, which has been made before the coming into force of this Act.

The subject matter protected pursuant to Article 49, which has been made after December 31, 1982, shall be protected until January 1, 2013.

The provisions in force at the time of the coming into force of this Act shall be applied to any acts done, any rights acquired and any agreements made before the coming into force of this Act.

Copies of the subject matter protected pursuant

to Article 49, which have been made before the coming into force of this Act under provisions in force at the time of the coming into force of this Act, may further be distributed to the public and publicly exhibited. However, the provisions of Article 19, paragraph 2 of this Act, shall also be applied in accordance with Article 49, paragraph 3 of this Act, to the copies of the protected subject matter, which have been made before the coming into force of this Act.

Notwithstanding the provisions of this Act, any person who, before the coming into force of this Act, has commenced to use the subject matter protected pursuant to Article 49 not protected before the coming into force of this Act, by making copies thereof or by making it available to the public in a manner which has required substantial measures, may proceed to complete the commenced use to a normal extent necessary for the said use by the end of the year 1999. Provisions of the completion of commenced use above shall also apply to any person who, under similar circumstances, has taken substantial measures to make copies of the protected subject matter or to make it available to the public. Copies made by virtue of the provisions in this paragraph may further be distributed to the public and publicly exhibited, subject to the provisions of Article 19, second paragraph of this Act in accordance with Article 49, paragraph 3 of this Act.

October 9, 1998 / 748 (Published October 15, 1998):

This Act shall come into force on January 1, 1999.

Measures to enforce this Act can be taken prior to the coming into force of it.

THE PENAL CODE OF FINLAND:

CHAPTER 49 Violation of certain intellectual property rights (21.4.1995/578)

Article 1 (21.8.1995/1010)

Copyright offence

A person who for profit and in violation of the Copyright Act (404/61) and in a manner conducive to causing considerable inconvenience or damage to the rightholder, breaches the right of another to

- 1) a literary or artistic work;
- 2) a performance of a literary or artistic work;
- 3) a phonograph record or any other device on which sound has been recorded;
- 4) a film or any other device on which moving images has been recorded;
- 5) a radio or television transmission;
- 6) a catalogue, table, programme or any other production, referred to in Copyright Act, in which a large number of information items are compiled, or a database which shows that there has been a substantial investment in either the obtaining, verification or presentation of the contents of that database, or (3.4.1998/251)
- 7) a photographic picture,

shall be sentenced for a copyright offence to a fine or to imprisonment for at most two years.

A person shall also be sentenced for a copyright offence if he for profit and in a manner conducive to causing considerable inconvenience or damage to the rightholder, imports for distribution to the public a copy of a work or photographic picture, a phonograph record, film, or any other device on which sound or moving images has been recorded, or a catalogue, table, programme or any other production, in which a large number of information items are compiled, or a database which shows that there has been a substantial investment in either the obtaining, verification or presentation of the contents of that database, as referred to in first paragraph and reproduced outside the country, while knowing that it has been reproduced in circumstances under which said reproduction would in Finland be punishable under the first paragraph or Article 56 a of the Copyright Act. (3.4.1998/251)